

**REMARKS**

Claims 12, 13 and 23-27 now stand in the application, claims 14-22 having been canceled and new claims 23-27 added. Reconsideration of the application and allowance of all claims are respectfully requested in view of the above amendments and the following remarks.

In the Notice of Non-Compliant Amendment mailed July 28, 2006, the examiner alleges that claims 23-27 added by the amendment of June 28, 2006 are directed to a different invention from that to which the originally examined claims 1-22 were directed. Applicant respectfully disagrees. While the introductory phrase of the claims has been changed from “A method of signaling failures” to “A method of managing a protection mechanism,” the basic subject matter of the claimed invention has not changed. Claim 23 recites additional subject matter in an attempt to further patentably distinguish over the prior art, but that is no different from many other cases where limitations are added to further distinguish over the prior art.

Claim 12 has now been amended to a scope very similar to claim 23, to better show the similarity of subject matter. The preamble of claim 12 recited network elements connected in a ring configuration, with the fiber spans including working and protection channels. Claim 23 describes network elements connected in a ring and similarly describes the protection and working channels. Claim 12 recited the protection of traffic by carrying out switching operations between working and protection channels, with the switching operations being driven through protection words exchanged among the network elements, and claim 23 describes the transmitting of an indication of a performed ring switch which has been performed after

detecting a failure on one side of the network element, and the transmitting of an indication of a performed ring switch and an external command under some circumstances. So this is simply an alternative expression for the properly coded protection words.

Claim 12 described that the node NE on receiving a Signal Fail and being in a LKW state would send a properly coded protection word in an opposite direction through the ring network. Claim 23 describes the detection of a failure on the east side and the sending of an indication out the west side (the “opposite direction” in claim 12).

Claim 23 describes a node detecting a failure (similar to claim 12 recitation of receiving a Signal Fail), and having received a command requesting suppression of the ring switch (similar to claim 12 reciting that the network element is in the LKW state) transmits from the west side an indication of the performed ring switch and of the external command (similar to claim 12 reciting that the node sends to the node (NE2) a properly coded protection word).

Thus, both of original claim 12 and new claim 23 recite the use of “indications” or “properly coded protection words” in the opposite direction (west) from where the failure was detected (east)). And both of original claim 12 and new claim 23 recite that a node which has received a command for suppression of the ring switch (is in a LKW state) send an “indication” (or a “properly coded protection word”) to the adjacent node.

As explained above, it is submitted that the subject matter of claim 23 is not a different invention from that of earlier claim 12, and examination of all of claims 12 and 23-27 is respectfully requested.

With respect to the merits of the Office action, claims 12, 16-18 and 21 stand rejected for anticipation by Chikazawa et al (USP 5,818,816). Claims 13 and 19 stand rejected as

unpatentable over Chikazawa et al in view of Hata (USP 5,712,847) and in further view of Dempsey et al (USP 5,282,200). Claims 14 and 20 stand rejected as unpatentable over Chikazawa et al in view of Hata. Claim 15 stands rejected as unpatentable over Chikazawa et al in view of Chapman (USP 5,974,027). Claim 22 stands rejected as unpatentable over Hata in view of Dempsey. These rejections are respectfully traversed insofar as applicable to the new claims.

The invention as disclosed in the present application and as now emphasized in the claims relates to the sending of proper protection words which permit a node to notify an adjacent node of its special condition having performed a ring switch even though it has received a Lockout of Working Channel (LKW) command.

Chikazawa et al does not anticipate claims 12 or 23. Applicant disagrees with the interpretation of the examiner with respect to the applicability of the claim language to the signals and events in Chikazawa et al. But it is sufficient to note that the claims now clearly emphasize the operation of the invention whereby a node maintains a switch operation even though instructed not to do so, and then signals to an adjacent node what it has done, i.e., not just that it has switched, but that it has switched in the presence of a switch suppression command. This is not shown or suggested in Chikazawa et al.

Claims 24-27 distinguish over Chikazawa et al due to their dependency on claim 23, but further describe operations that are not suggested in Chikazawa et al.

The remaining references do not teach or suggest the critical features lacking in Chikazawa et al.

SUPPLEMENTAL AMENDMENT  
USSN: 10/049,831

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

An extension of time is requested, the required fee being separately authorized through the Electronic Filing System (EFS). The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: November 28, 2006

/DJCushing/  
David J. Cushing  
Registration No. 28,703